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FILED

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NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	
	:	Administrative Action
FRANK J. MARINARO, D.C.	:	
LICENSE NO. MC001359	:	CONSENT ORDER
	:	
TO PRACTICE CHIROPRACTIC IN	:	
THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Chiropractic Examiners by John J. Farmer, Jr., Attorney General of New Jersey, by Anthony P. Kearns, III, Deputy Attorney General, with offices located at 124 Halsey Street, Newark, New Jersey.

The New Jersey State Board of Chiropractic Examiners received notice from the United States District Court Probation Office that Dr. Marinaro was convicted of 26 U.S.C. §7201, felony tax evasion on or about July 15, 1993 and 18 U.S.C. §1341, felony mail fraud on or about April 12, 1999.

By way of his guilty plea on December 2, 1998 respondent admitted that he, from in or about 1994 to in or about 1995, knowingly and willfully devised, caused to be devised and intended to devise a scheme and artifice to defraud insurance companies.

The respondent admitted that he did obtain money and property from these insurance companies by causing fraudulent bills to be submitted to the insurance companies for services that he did not perform. The respondent also admitted that he attempted to conceal his fraud by causing progress notes to be submitted to private insurance companies which falsely stated that he had examined or treated a patient on a particular day when, in fact, he had not examined or treated that patient on that day. The respondent further admitted that, on or about February 1, 1995 he caused an envelope containing falsely over-stated billing for chiropractic services to be mailed in an authorized depository and to be delivered by the U.S. Postal Service to the Allstate Insurance Company, in violation of Title 18, U.S.C §1341. The respondent was sentenced to 30 days incarceration, supervised release for three years with five months home detention, and ordered to pay \$20,965.00 in restitution and ordered to pay a \$10,000.00 fine and a \$100.00 Special Assessment. The crimes for which he was convicted involve the use or employment of dishonesty, fraud, deception, and misrepresentation, within the meaning of N.J.S.A. 45:1-21(b), professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and constituted crimes involving moral turpitude and crimes relating adversely to the chiropractic profession in violation of N.J.S.A. 45:1-21(f).

By way of his guilty plea on March 29, 1993 respondent admitted that he knowingly and willfully did attempt to evade and defeat part of the income tax due and owing to the United States in

that he signed and caused to be filed a false and fraudulent 1985 and 1986 U.S. Individual Income Tax Return, Form 1040, knowing it to be false and fraudulent in violation of Title 26 U.S.C. §7201. The respondent was sentenced to three years probation and ordered to pay a \$10,000.00 fine and a \$50.00 Special Assessment. The crimes for which he was convicted involve the use or employment of dishonesty, fraud, deception, and misrepresentation, within the meaning of N.J.S.A. 45:1-21(b), professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and constituted crimes involving moral turpitude and crimes relating adversely to the chiropractic profession in violation of N.J.S.A. 45:1-21(f).

Despite respondent's then pending Federal charges and his prior July 15, 1993 conviction pursuant to 26 U.S.C. §7201, tax evasion, Dr. Marinaro indicated on his 1995 and 1997 biennial renewal registration applications that he had not been charged or convicted of any violation, law or regulation since his last renewal. Dr. Marinaro's lack of truthfulness on his biennial license registration applications is a violation of N.J.S.A. 45:1-21(b).

The parties have agreed to a resolution of this matter without the necessity for further proceedings and it appears that respondent has read and agreed to abide by the terms of this Order. It further appears that this Order is adequately protective of the public interest, and good cause therefore existing for the entry of this Order, it is

THEREFORE, ordered on this 15 day of March, 2000, 1999
AGREED and ORDERED:

1. Respondent, Frank J. Marinaro, D.C., is hereby granted leave to surrender his license to practice Chiropractic in the State of New Jersey; such surrender shall be deemed a revocation. The respondent may not reapply for licensure for five years from the date this Order is filed.

2. Respondent shall return his original New Jersey license and current biennial registration to the New Jersey State Board of Chiropractic, 124 Halsey Street, 6th floor, P.O. Box 45004, Newark, New Jersey 07101, upon receipt of a filed copy of this Order.


3. Respondent shall pay investigative costs in the amount of \$645.11 upon entry of the within Consent Order. Said costs shall be submitted by certified check or money order and be made payable to the State of New Jersey.

4. Respondent shall comply with the "Directives Applicable to Any Chiropractic Board Licensee who is Suspended, Revoked, or whose Surrender of Licensure has been Accepted" which is attached hereto and made a part hereof.

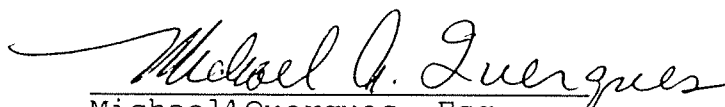
NEW JERSEY STATE BOARD OF CHIROPRACTIC

By 
Anthony DeMarco, D.C.
Board President

I have read and understood
the written Order and agree
to be bound by its terms
Consent is given to the
Board to enter this Order.


Frank J. Marinaro, D.C.

I agree to the entry of this Order


Michael A. Querques, Esq.

DIRECTIVE REGARDING FUTURE ACTIVITIES OF
CHIROPRACTIC BOARD LICENSEE WHO HAS BEEN DISCIPLINED

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of the licensed profession in any form either as principal or employee of another.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new professional is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing medical record to the new professional, or to the patient if no new professional is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices the profession.
- 5) Desist and refrain from furnishing professional services, giving an opinion as to the professional practice or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice the profession or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice the licensed profession. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing, such as listing in a professional directory of any type or a telephone directory or radio or television advertisement.
- 6) Not use any sign or advertise that such person, either alone or with any other person has, owns, conducts or maintains a professional office or office of any kind for the practice of the profession or that such person is entitled to practice, and such person shall promptly remove any sign suggesting ability of the disciplined practitioner to practice the profession.
- 7) Cease to use any stationery whereon such person's name appears as a professional in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed of, transferred or safeguarded.

8) The disciplined licensee shall require that for a six-month period following the start of a suspension or revocation of license, a message be delivered to those telephoning the former office premises advising former patients where they may obtain their records. The message may inform callers that the practice is now being conducted by (another) named licensee, and the new telephone number of that licensee may be announced. The same information shall be disseminated by means of a notice to be published at least once per month for the same six month period in a newspaper of general circulation in the geographic vicinity in which the professional practice was conducted.

9) Not share in any fee for professional services performed by any other professional following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

10) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and/or equipment.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a member of a professional group which uses a group-type name such as the ABC Medical Group. The disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

11) Report promptly to the Board compliance with each, directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

12) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the New Jersey State Board of Medical Examiners in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

13) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 30 days after the effective date of the Board Order, file with the Secretary of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence address or telephone number shall be promptly reported to the Secretary.